Supreme Court, U.S.
FILED
MAR 15 1996

NO. 95-1291

IN THE SUPREME COURT OF THE UNITED STATES
October Term, 1995

DIANN HARRIS CARTER, et al.,
Petitioners

v.

STANLEY MROZOWSKI, et al.,
Respondents.

On Writ of Certiorari to the Pennsylvania Supreme Court

BRIEF OF RESPONDENTS GARY BEESE AND LARRY DECKER IN OPPOSITION TO THE PETITION FOR WRIT OF CERTIORARI

THOMAS W. CORBETT, JR.
Attorney General

** CALVIN R. KOONS
Senior Deputy Attorney General

GWENDOLYN T. MOSLEY
Senior Deputy Attorney General

JOHN G. KNORR, III
Chief Deputy Attorney General
Chief, Litigation Section

Office of Attorney General
15th Floor, Strawberry Square
Harrisburg, PA 17120
(717) 783-1471

** Counsel of Record

QUESTION PRESENTED

Whether the state courts correctly concluded that the second amended complaint failed to state federal claims.

TABLE OF CONTENTS

	PAGE
TABLE OF CITATIONS	iii
STATEMENT OF THE CASE	1
REASONS FOR DENYING THE WRIT ...	5
CONCLUSION	6
APPENDIX	

TABLE OF CITATIONS

CASES:	PAGE
Brown v. Western Railway of Alabama, 338 U.S. 294 (1950)	5
Felder v. Casey, 487 U.S. 131 (1988)	5
Fletcher v. Hook, 446 F.2d 14 (3d Cir. 1971)	2
Fuller v. Harding, 699 F.Supp. 64 (E.D.Pa. 1988), affirmed, 75 F.2d 310 (3d Cir. 1989)	2
Monell v. Department of Social Services, 436 U.S. 658 (1978)	2
Patterson v. McLean, 491 U.S. 164 (1989)	1
Pembaur v. City of Cincinnati, 475 U.S. 469 (1986)	2
STATUTES:	
42 U.S.C. §1981	1
42 U.S.C. §1983	1, 4
42 U.S.C. §1983	1, 2, 4

STATEMENT OF THE CASE

Petitioners, ten former employees of the Rosalie G. Handler Center, a facility which provided mental health/mental retardation services pursuant to contract with the Pennsylvania Department of Public Welfare, have petitioned the Court to grant certiorari to reverse a decision of the Pennsylvania Commonwealth Court affirming the trial court's dismissal of their second amended complaint for failure to state a claim.

1. Petitioners brought their action in state court against an assortment of defendants which included former employees of the Handler Center, county employees, private health care providers, a state representative, and a law firm. The complaint also named two employees of the State Department of Public Welfare, Gary Beese and Larry Decker, on whose behalf this brief is filed. The complaint asserted claims pursuant to 42 U.S.C. §§ 1981, 1983, and 1985 as well as numerous state law claims in connection with petitioners' loss of employment at the Handler Center. After petitioners filed an amended complaint dropping one of the defendants, the remaining defendants preliminarily objected to the complaint for failure to state a claim. The trial court sustained the objections but granted leave to amend all counts of the complaint except those alleging violations of 42 U.S.C. §1981. Citing *Patterson v. McLean, 491 U.S. 164 (1989)*, the court concluded that at best the complaint alleged a breach of contract claim which was not actionable under Section 1981. App. 10a-12a.[1] The court noted that the complaint was in technical violation of a state

[1]Citations to the trial court's first opinion and to the second amended complaint, neither of which were included in the appendix to the petition, are to the appendix attached to this brief.

rule which required that the contracts in issue be attached to the complaint, but explicitly declined to base its decision on the rule rather than on the merits of the federal claim. App. 11a.

With respect to the other federal claims, the court found the complaint similarly deficient. The court held that the conspiracy claims pleaded pursuant to 42 U.S.C. §1985 were too conclusory to satisfy the standard explained in *Fuller v. Harding, 699 F.Supp. 64 (E.D.Pa. 1988) affirmed, 75 F.2d 310 (3d Cir. 1989)* and *Fletcher v. Hook, 446 F.2d 14 (3d Cir. 1971)*, and that the Section 1983 claims were deficient as to the County defendants under *Monell v. Department of Social Services, 436 U.S. 658 (1978)* and *Pembaur v. City of Cincinnati, 475 U.S. 469 (1986)* for failure to allege a policy, practice, or custom violative of civil rights. App. 6a-10a. The court also cautioned that "the amended complaint fails to adequately allege that defendants were acting under color of state law or that plaintiffs have a protected right." App. 8a. Lastly, the court held that petitioners had failed to state a claim under the state law counts alleging civil conspiracy, defamation, wrongful discharge, and violations of a city human relations ordinance. App. 12a-17a.

2. Given leave to amend, petitioners filed a forty page, second amended complaint pleaded in one hundred forty-five paragraphs. App. 20a-55a. The second amended complaint, like the first one, implied a massive conspiracy among the defendants to defame the petitioners in order to bring about the closing of the Handler Center to benefit competing health care providers, defendant Edgewater Psychiatric Center and Northwestern Corporation. Petitioners alleged, for example, that "the defendant Edgewater needed, inter alia, the partial program at Handler

to survive financially, and this was well known to the defendants herein and was consistently pursued by them for Edgewater at the behest of Northwestern", App. 34a., and that the defendants defamed plaintiffs to effect the acquisition and control of Handler's service, and "because plaintiffs were black, female, and in certain cases gay and or lesbian." App. 34a-35a. Of defendants Beese and Decker, the only two state employees named in the complaint, it was alleged only that they "supported the unlawful actions of the defendants, knowingly, through the exaggerated use of [their] authority over licensing procedures in Pennsylvania to infer, imply, and otherwise create grounds for the other defendants ... to charge mismanagement at Handler." App. 30a.

All respondents again preliminarily objected to the complaint as amended. Sustaining the objections and dismissing all federal and state claims pleaded in the second amended complaint, the trial court referred to the standards set forth in its earlier opinion and cited the same and additional federal cases. Pet. App. 11a-12a. The court concluded that the amended complaint merely added conclusory phrases like "state power" and "under color of state law" and did not contain "facts setting forth a policy, practice, or custom of the state, or allegations as to how any of the actions of any of the defendants were under color of state law or led to the deprivation of federally protected rights." Pet. App. 12a. The court concluded that "there could be no recovery under Section 1983, even accepting as true every well pleaded, material fact set forth by plaintiffs." Id. The court dismissed the Section 1985 claim because it did not meet the "detailed factual pleading" standard which the court understood to be required by federal law. Pet. App. 12a-13a, and also dismissed the remaining state claims.

3. Petitioners appealed to Commonwealth Court and raised in that court for the first time the issue they frame in their petition. Commonwealth Court rejected their arguments and affirmed the judgment of the trial court, concluding that state, not federal pleading requirements applied to the case, and, citing federal caselaw, concurring with the trial court in holding that the second amended complaint failed to state claims under Section 1983 and Section 1985. Pet. App. 4a-5a. The Pennsylvania Supreme Court refused to grant petitioners' petition for allowance of appeal, and they thereafter petitioned for writ of certiorari.

REASONS FOR DENYING THE WRIT

THIS CASE DOES NOT MERIT REVIEW BY THE COURT

This case does not present any significant or important issues to justify review by the Court. Petitioners attempt to present the case as one in which valid federal claims filed in state court have been defeated by technical rules of state practice. In this they are mistaken. This is not a case like *Felder v. Casey, 487 U.S. 131 (1988)*, in which the Court held that state notice of claim requirements could not bar federal claims filed in state court. Nor is it a case like *Brown v. Western Railway of Alabama, 338 U.S. 294 (1950)*, upon which petitioners principally rely, in which the Court said that a state rule requiring that a pleading be construed strongly against the pleader could not be used to defeat an otherwise colorable federal claim. Rather, this is a case in which a state court was confronted with an incomprehensible complaint pleading a variety of federal and state claims against state, county, and private individual and corporate defendants. The court analyzed the federal claims under federal statutory and decisional law as it understood it, explained the deficiencies it perceived, and granted the petitioners leave to amend to correct them. The court then dismissed the amended complaint not because of technical deficiencies in pleading, but because it concluded that, even accepting all pleaded facts as true, the complaint failed to state the most basic elements of a federal claim. In this the court was quite correct, and the petition for writ of certiorari should be denied.

CONCLUSION

For the foregoing reasons, the petition for writ of certiorari should be denied.

Respectfully submitted,

THOMAS W. CORBETT, JR.
Attorney General

CALVIN R. KOONS
Senior Deputy Attorney General

GWENDOLYN T. MOSLEY
Senior Deputy Attorney General

JOHN G. KNORR, III
Chief Deputy Attorney General
Chief, Litigation Section

COUNSEL FOR RESPONDENTS
BEESE AND DECKER

Office of Attorney General
15th Floor, Strawberry Square
Harrisburg, PA 17120
(717) 783-1471

DATED: March 15, 1996

APPENDIX

IN THE COURT OF COMMON PLEAS
FOR DAUPHIN COUNTY PENNSYLVANIA

DIANN HARRIS CARTER, JOANNA FOSTER, JOYCE WATERS, GWENDOLYN TOWLES MANNING, DEBORAH ALGER, FRANCES MANNING, DR. ROSEMARY MADL, MARILYN R. LOVELL, CATHY CONSLA, AND RODGER L. BEATTY	: CIVIL ACTION - LAW : : : : : : : : 2271 - 8 - 1992
Plaintiffs	:
V.	:
STANLEY MROZOWSKI, RALPH MOYER, JEFFREY PICCOLA, GARY BEESE, JOHN THOMAS, DAHL KROW, MARK BARTON, LARRY DECKER, DEBORAH GANTT, PATRICIA BARD, WENDY MINNIX, LYNN LOOMIS, SANDY REISINGER, KELLY DUNLAP, IRENE URBAN, INDIVIDUALLY; BOSWELL, SNYDER, TITNER, & PICCOLA, A LAW FIRM, EDGEWATER PSYCHIATRIC CENTER, NORTHWESTERN CORPORATION, DAUPHIN COUNTY MENTAL HEALTH AND MENTAL RETARDATION	: : : : : : : : : : : : : : : : : : : :

CASE MANAGEMENT UNIT	:	
AND DAUPHIN COUNTY	:	JUDGE KLEINFELTER
MENTAL HEALTH AND	:	
MENTAL RETARDATION	:	
COUNSELLING, PRIVATE	:	
CORPORATIONS, AND	:	
DAUPHIN COUNTY A LOCAL	:	
GOVERNMENT ENTITY	:	JURY TRIAL DEMANDED
	:	
Defendants	:	

BEFORE: MORGAN, TURGEON and KLEINFELTER, JJ.

OPINION

This matter comes before the court on defendants' preliminary objections to plaintiffs' complaint. The instant action arises from Dauphin County's decision not to renew its contract with the Rosalie G. Handler Center,contract with the Rosalie G. Handler Center, a provider of mental health and mental retardation services. The facts in this case were difficult to ascertain as a result of the skeletal and conclusory nature of plaintiffs' complaint, but we have been able to glean the following facts from plaintiffs' complaint.

The amended complaint[1] alleges that the plaintiffs[2] were all employed in various positions at the Rosalie G. Handler Center

---

[1]Plaintiffs' original complaint was filed on June 3, 1992. An amended complaint was filed on June 4, 1992. The only difference between the original and amended complaints was that one of the named plaintiffs, Lucy Bibby, was dropped from the action.

[2]Plaintiffs are Diann Carter, Joanna Foster, Joyce Waters, Gwendolyn Manning, Lucy Bibby, Deborah Alger, Frances Manning, Dr. Rosemary Madl, Marilyn Lovell, Cathy Consla, and Rodger Beatty.

until their dismissal on June 15, 1990. Plaintiffs aver that they were dismissed because of their race, sex and/or sexual orientation and were replaced by white males, all of whom were not homosexual, and were less qualified and capable than the plaintiffs. Plaintiffs state that their rights to substantive and procedural due process and equal protection of the laws were violated by the defendants[3], who were government employees acting under color of state law, and who illegally agreed among themselves to destroy, harass, and defame plaintiffs because of their race, sex or sexual orientation.

In the amended complaint, plaintiffs claim that they do not know the precise dates or times when the defendants conducted meetings to discuss their plans to harm the plaintiffs and destroy the Handler Center, but that "an unlawful combination for unlawful purposes was participated in by all defendants" from 1989 until June 15, 1990. (Paragraph 47) Plaintiffs continue by alleging that defendants Stanley Mrozowski, Administrator of the Dauphin County Mental Health & Mental Retardation Program, and Ralph Moyer, Director of Dauphin County Human Services, both made defamatory statements with respect to the conduct and qualifications

---

[3]Defendants are Stanley Mrozowski, Administrator, Dauphin County Mental Health and Mental Retardation Program; Ralph Moyer, Director of Dauphin County Human Services; Jeffrey Piccola, State Representative and member of the law firm of Boswell, Snyder, Tintner & Piccola; John Thomas, a social worker at Edgewater Psychiatric Center; Dahl Krow, a contract monitor for Dauphin County; Mark Barton, a mental health specialist for Dauphin County, Gary Beese, a manager for the Office of Mental Health Mental Retardation of the Department of Public Welfare; Larry Decker, an employee of the Department of Public Welfare; Deborah Gantt, Sandy Reisinger, and Kelly Dunlap, case managers at Rosalie G. Handler Center; Patricia Bard and Wendy Minnix, therapists at Rosalie G. Handler Center; Lynn Loomis, a case management supervisor at the Handler Center; Irene Urban, the fiscal coordinator at the Handler Center; Boswell, Snyder, Tintner & Piccola, the Edgewater Psychiatric Center, the Northwestern Corporation, the Dauphin County Mental Health and Mental Retardation Counseling and Dauphin County.

of the plaintiffs in an effort to discredit them, knowing the statements to be untrue. The amended complaint avers that defendant Moyer made the statement "we're going to get rid of them", referring to plaintiffs, to Dauphin County Commissioner Peters in early 1990. (Paragraph 51)

Plaintiffs also claim that defendants Gantt, Bard, Minnix, Loomis, Reisinger, Dunlap, and Urban, all employees of the Handler Center, made defamatory statements attacking their supervisors, knowing that their accusations were false. (Paragraphs 58-64) According to the complaint, defendant Jeffrey Piccola, a member of the Harrisburg law firm of Boswell, Snyder, Tintner & Piccola, carried these defamatory statements, which were unverified, to the floor of the Pennsylvania House of Representatives, where he made reference to them and discussed them with reporters for the Harrisburg Patriot News.

Additionally, defendants Larry Decker, a DPW-OMH Licensure representative for the DPW Central Regional Office, and Gary Beese, a community program manager for the Commonwealth of Pennsylvania Community Mental Health Services, are alleged to have used their authority over licensing procedures in Pennsylvania to create grounds for defendants Mrozowski, Moyer, DCMHC, and Dauphin County to charge mismanagement at Handler. Plaintiffs also aver that defendant Thomas, an employee of defendant, Edgewater Psychiatric Hospital, generated false reports of mismanagement at Handler by claiming that defendant Foster, an employee at the Handler Center, was not attending after-care follow-up meetings. Plaintiffs claim that all of the above defamatory statements were made by the defendants in an effort to establish that Handler was mismanaged so that Edgewater Psychiatric Center, which was in serious financial difficulty from 1988 through June 15, 1990, could gain access and control of Handler's partial program and case management resources.

Dauphin County notified the Handler Center that it would not be renewing its contract upon its expiration on June 30, 1990. On June 15, 1990, Judge James Buckingham issued orders authorizing Dauphin County to have the full use and occupancy of all premises leased, owned or occupied by the Handler Center. The order also transferred all county owned equipment and supplies, including client files and. records, from Handler to the county. (See Order, Supplemental Order and Third Supplemental Order, 4880 Equity 1990)

As a result of the above court order, plaintiffs claim that they were physically forced out of their offices without warning and their rights to be secure in their person and property were violated. Plaintiffs' complaint alleges that the Handler Board was told that if it failed to sign over all of its assets immediately, criminal charges would be brought against one of the plaintiffs, Dr. Rosemary Madl. Plaintiffs claim that the Handler Board dissolved the Rosalie Handler Center in July 1992 as a result of defendant Piccola and other defendants publicly proclaiming that "the Handler Board is rotten to the core." (Paragraph 86)

Plaintiffs' complaint consists of fifteen counts. Counts I & II allege violations of civil rights pursuant to 42 U.S.C. §1983. Counts III and IV aver violations of civil rights pursuant to 42 U.S.C. §1985 and 42 U.S.C. §1981. Count V is a claim for civil conspiracy to defame plaintiffs. Counts VIXIII are all claims for defamation. Count XIV is an allegation of wrongful discharge. Finally, Count XV alleges a violation of Harrisburg Ordinance 6-1983. All of the defendants filed preliminary objections in the nature of demurrers and motions for more specific pleadings.

The issues before this court are as follows: (1) Does plaintiffs' complaint state a cause of action against any of the defendants for violation of their civil rights pursuant to 42 U.S.C. §1983, 42 U.S.C. §1985, or 42 U.S.C. §1981? (2) Can plaintiffs

set forth a cause of action for civil conspiracy? (3) Have plaintiffs alleged a cause of action against any of the defendants for defamation? (4) Does plaintiff's complaint state a cause of action for wrongful discharge? (5) Have plaintiffs alleged a violation of Harrisburg Ordinance 6-1983?

The factual allegations in plaintiffs' complaint are sketchy at best and do not provide us with a complete factual background in the instant case, but we are constrained to accept the facts provided in plaintiffs' complaint when ruling on demurrers. "[A] preliminary objection in the nature of a demurrer is deemed to admit all well-pleaded facts and all inferences reasonably deducted therefrom. (Citation omitted) In determining whether to sustain a demurrer, the court need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion." Giffin v. Chronister, ___ Pa. Cmwlth. ___, ___, 616 A.2d 1070, 1072 (1992).

After a thorough review of plaintiffs' complaint and the defendants' preliminary objections, we find that as a result of the numerous conclusory allegations in plaintiffs' complaint, plaintiffs have failed to set forth causes of action under any of the 15 counts pled in the complaint. We will now address the deficiencies in these counts.

Beginning with the civil rights claims, Counts I and II of plaintiffs' complaint allege violations of plaintiffs' civil rights pursuant to 42 U.S.C. §1983. Section 1983 provides as follows:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or

> immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

In order to establish a Section 1983 claim against a municipality or county, the following requirements must be met; first, there must be an allegation that the complained of action was a policy, practice, or custom of the municipality or county; second, the alleged actions of all defendants must be "under color of state law"; and third, the plaintiffs must allege the existence of a protected right entitling them to protection under the equal protection or due process clauses of the 14th Amendment.

Addressing the first requirement, whether the action is a policy or practice of the municipality, the U.S. Supreme Court in Monell v. Department of Social Services, 436 U.S. 658, 56 L.Ed. 2d 611, 98 S.Ct. 2018 (1978) held that a municipality cannot be held liable in Section 1983 actions on the basis of respondeat superior:

> A local government may not be sued under §1983 for an injury inflicted solely by its employees or agents. Instead, it is when execution of a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under §1983.

Monell, 436 U.S. at 694, 56 L.Ed. 2d at 638, 98 S.Ct. at 20372038.

In Pembaur v. City of Cincinnati, 475 U.S. 469, 89 L.Ed. 2d 452, 106 S.Ct. 1292 (1986), the Supreme Court further elaborated upon this reasoning and outlined specifically when a municipality can be held liable.

> Municipal liability attaches only where the decisionmaker possesses final authority to establish municipal policy with respect to the action ordered. The fact that a particular official - even a policy-making official - has discretion in the exercise of particular functions does not, without more, give rise to municipal liability based on an exercise of that discretion. (citations omitted) The official must also be responsible for establishing final government policy respecting such activity before the municipality can be held liable.

Pembaur, 475 U.S. at 481-483 L.Ed 2d at 464-465, 106 S.Ct. at 1299-1300.

In the instant action, there are no allegations in plaintiffs' amended complaint that Dauphin County or any of the other defendants had a policy, custom, or practice violative of any civil right or that an official with final authority to make such a policy acted on behalf of Dauphin County or any of the other defendants. Having established that plaintiffs failed to satisfy one of the requirements for a Section 1983 action, we need not reach the other two requirements. We caution plaintiffs, however, that the amended complaint fails to adequately allege that defendants were acting under color of state law or that plaintiffs have a protected right.

With respect to plaintiffs' Section 1985 claim,[4] Section 1985 proscribes conspiracies that interfere with a) the performance of official duties by federal officers, b) the administration of justice in federal courts c) the administration of justice in state courts d) the private enjoyment of "equal protection of the laws" and "equal privileges and immunities under the laws" and e) the right to support candidates in federal elections. Kush v. Rutledge, 460 U.S. 719, 75 L.Ed 2d 413, 103 S.Ct. 1483 (1983). Three of these five categories clearly relate to the federal government and are inapplicable in the instant case since plaintiffs' amended complaint contains no allegations of federal involvement. Plaintiffs fail to plead with sufficient specificity, however, how the defendants have violated the other two categories concerning conspiracies to interfere with the administration of justice in state courts and the private enjoyment of equal protection under the laws.

The plaintiffs must file a detailed factual pleading to establish a cause of action under Section 1985(3). In Fuller v. Harding, 699 F.Supp. 64 (E.D. Pa. 1988) aff. 875 F.2d 310 (3d Cir. 1989) the court held that "[b]road and conclusory allegations, without some form of factual support, will not state a claim based on a conspiracy pursuant to 42 U.S.C. §1983 or §1985(3)".

---

[4]Although plaintiffs' fail to designate which subsection of section 1985 they are relying upon, it appears that their claim is based upon section 1985(3) which provides as follows:

> If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunites [sic] under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; ...

(citations omitted) 699 F.Supp. at 67. See also, Fletcher v. Hook, 446 F.2d 14 (3d Cir. 1971).

Count III of plaintiffs' amended complaint fails to satisfy the specificity requirement because it contains only conclusory allegations. Plaintiffs' complaint avers that "defendants were unlawful in that the defendants agreed to cooperate together for the unlawful purpose of depriving plaintiffs of their rights to enjoy the rights, privileges and immunities of the Constitution and laws of the United States of America pursuant to 42 U.S.C. 1985." In paragraph 47, plaintiffs also concede that they "do not know the precise dates or times of meetings among defendants at which deliberate or intentional plans to harm and injure plaintiffs ... occurred." Plaintiffs only aver that all defendants participated in an unlawful combination for unlawful purposes, but they fail to allege which defendants were involved in the conspiracy, when and where the meetings among defendants took place and the subject matter of such meetings.

Turning to Count IV of plaintiffs' amended complaint, plaintiffs Carter, Foster, Waters, and Manning (all AfricanAmerican citizens) assert a Section 1981 claim alleging the unlawful termination of "duly executed contracts for employment with Handler." Section 1981 provides as follows:

> All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

Although plaintiffs aver the existence of "duly executed contracts for employment with Handler" in paragraph 109 of the amended complaint, they fail to attach copies of the contract to the complaint. A question, therefore, clearly exists as to whether the plaintiffs had contracts or were merely at-will employees of Handler. We recognize that plaintiffs' failure to attach copies of the contracts to the complaint technically violates Rule 1019(h), but rather than relying upon a technical deficiency in deciding plaintiffs' claim, we will reach the merits of the Section 1981 claim.

Assuming that plaintiffs did have contracts with the Handler Center in 1989 and 1990, Section 1981 would still be inapplicable to the instant case because Section 1981 only prohibits refusals to enter into a contract or to offer to make a contract on discriminatory terms. In Patterson v. McLean Credit Union, 491 U.S. 164, 105 L.Ed 2d 132, 109 S.Ct. 2363 (1989), the Supreme Court addressed the applicability of Section 1981 to breach of contracts and held that the breach of a contract is post-formation conduct that is not actionable under Section 1981. Patterson, 491 U.S. at 176-177, 105 L.Ed 2d at 150-151, 109 S.Ct. at 2372-2373. See also, Courtney v. Canyon Television and Appliance Rental, 899 F.2d 845 (9th Cir. 1990), Lavender v. V & B Transmission and Auto Repair, 897 F.2d 805, 807-808 (5th Cir. 1990).

Although the Civil Rights Act was amended in 1991 to include the modification and termination of contracts, this would not affect the instant case because subsequent cases have held that the Civil Rights Act of 1991 should not be applied retroactively because such would result in manifest injustice. Blanding v Pennsylvania State Police, 811 F.Supp. 1084, (E.D. Pa. 1992), Ribando v. United Airlines, Inc., 787 F.Supp. 827 (N.D. Ill. 1992); Sofferin v. American Airlines, Inc., 785 F.Supp. 780 (N.D. Ill. 1992). The alleged discriminatory action in this case took place between 1989 and June 15, 1990. This was clearly before the Civil

Rights Act was amended in 1991, and therefore Patterson would be the applicable law in the instant case.

Having addressed plaintiffs' civil rights claims, we now turn to the second issue, plaintiffs' claim of civil conspiracy. In Count V, plaintiffs aver that the defendants unlawfully agreed to defame plaintiffs and planned to deprive plaintiffs of their positions knowingly, with malice aforethought, for the unlawful purpose of causing plaintiffs' wrongful discharge and of replacing plaintiffs in their employment, and to discriminate against and harm plaintiffs on account of their race, sex, and/or sexual preference ..." (Paragraph 112)

This type of broad conclusory allegation will not support a claim for conspiracy. "As a rule, conspiracy must be pleaded with specificity." Realco Services, Inc. v. Holt, 479 F.Supp. 880, 884 (E.D. Pa. 1979). Additionally, "'[a] conspiracy claim based upon §1985(3) requires a clear showing of invidious, purposeful and intentional discrimination between classes or individuals."' (citations omitted) Robinson v. McCorkle, 462 F.2d 111, 113 (3d. Cir. 1972). In McDermott v. Russell, 523 F.Supp. 347 (E.D. Pa. 1981), the district court outlined the requirements for establishing a claim of conspiracy and held, "[u]nder Pennsylvania law a civil conspiracy is 'a combination of two or more persons to do an unlawful or criminal act or to do a lawful act by unlawful means or for an unlawful purpose."' Id., 523 F.Supp. at 351 (citing Landau v. Western Pennsylvania National Bank, 445 Pa. 217, 224, 282 A.2d 335, 341 (1971))

In the instant case, plaintiffs have clearly failed to plead material allegations sufficient to support a claim for civil conspiracy. Plaintiffs do not aver which defendants were specifically involved in the conspiracy, the dates when or the places where the defendants conspired to harm the plaintiffs, or the unlawful conduct in which the defendants supposedly participated.

With respect to the third issue, plaintiffs' eight counts alleging defamation, we find that plaintiffs have failed to establish the necessary elements to maintain causes of action for defamation against any of the defendants. A defamation action must allege: "(1) the defamatory character of the communication; (2) publication; (3) that the communication refers to the plaintiff; (4) the third party's understanding of the communication's defamatory character; and (5) injury." Sugarman v. RCA Corp., 639 F.Supp. 780, 786 (M.D. Pa. 1985). (citations omitted) Additionally, a complaint for defamation must provide the requisite particularity regarding the alleged defamatory statement. Spain v. Vicente, 315 Pa. Super. 135, 141, 461 A.2d 833, 836 (1983).

In Counts VI - XIII, plaintiffs fail to identify the words or subjects of the alleged defamatory statements, the persons to whom these defamatory statements were published, the manner in which the communications refer to the plaintiffs, and the third party's understanding of the communications' defamatory character. Without these specific factual averments, plaintiffs have failed to state a cause of action for defamation.

Addressing the fourth issue, we find that plaintiffs' conclusory allegations fail to state a cause of action for wrongful discharge. When evaluating an action for wrongful discharge,

> the threshold inquiry is whether or not the employment was at will. If it was, then the discharge is not reviewable in a judicial forum. An exception is that the discharge will be reviewable in a judicial forum when there is sufficient evidence to suggest that it was against public policy or made with the specific intent to harm the employee.

Veno v. Meredith, 357 Pa. Super. 85, 97, 515 A.2d 571, 577 (1986).

Although the plaintiffs could here argue that they fall into the public policy exception for at will employees, since they allege that their discharge was motivated by discrimination based on race or sex; nevertheless, plaintiffs' discriminatory allegations remain conclusory in nature and are lacking in sufficient factual averments. Plaintiffs' complaint avers only that "[a]ll plaintiffs were replaced after June 15, 1990" (Paragraphs 42-43) and "[o]n June 15, 1990 all" plaintiffs were summarily dismissed from their positions at Handler without just cause.it (Paragraph 45)

One of the few references the plaintiffs make to defendants involves an allegation "that the forcible removal of plaintiffs from their employment and their termination of employment by the sheriff of Dauphin County constituted a wrongful discharge of plaintiffs by the defendants by virtue of the defendants take over of Handler." (Paragraph 92) The sheriff, however, was acting pursuant to a supplemental order of court issued by Judge Buckingham on June 15, 1990 (4880 Equity 1990) when plaintiffs claim that they were "forcibly removed" from the Handler Center. The order of June 15, 1990 provided as follows:

> The Sheriff of Dauphin County is hereby authorized, upon request by either party to take such action as may be necessary to enforce both this Supplemental Order and such other Orders as are entered without further direction by the Court, including, but not limited to, the safety and security of the personnel essential to the performance or the execution of this Order, and the property of the County of Dauphin, and the defendant and all premises within which the same is occupied and located.

The sheriff's actions, therefore, did not constitute the wrongful discharge of the plaintiffs. The plaintiffs have failed to specifically

allege what actions were taken by the defendants which resulted in the plaintiffs' wrongful discharge.

Additionally, there are no allegations in plaintiffs' amended complaint that the plaintiffs received notice of their termination from any of the defendants. Plaintiffs only aver that as a result of threats from the defendants, the Handler Board dissolved the Handler Center (Paragraph 86). Plaintiffs also fail to aver that any of them applied for work at Dauphin County after June 15, 1990 or that any of them returned to work on June 18, 1990 and were refused employment.

The final issue concerns whether plaintiffs have stated a cause of action under the Harrisburg Human Relations ordinance. The Harrisburg city ordinance concerning "Human Relations and Discrimination", Article 725, Codified Ordinances of the City of Harrisburg, Ord. 6-1983, March 8, 1983, as amended does not provide for a private cause of action in the Court of Common Pleas except in connection with the enforcement of an order first being issued by the Harrisburg Human Relations Commission. Section 725.15, concerning enforcement and judicial review, provides as follows:

> 725.15 Enforcement and Judicial Review.
>
> The complainant, the City Solicitor or the Commission may secure enforcement of the order of the Commission or other appropriate relief by the Court of Common Pleas of Dauphin County. When the Commission has heard and decided any complaint brought before it, enforcement of its order shall be initiated by the filing of a petition in such court, together with a transcript of the record of the hearing before the Commission, and issuance and service of a copy of such petition as in proceedings

> in equity. When enforcement of a Commission order is sought, the court may make and enter, upon the pleadings, testimony and proceedings set forth in such transcript, an order or decree enforcing, modifying and enforcing as so modified, or setting aside, in whole or in part, the order of the Commission, and the jurisdiction of the court shall not be limited by acts pertaining to equity jurisdiction of the courts. An appeal may be taken as in other civil actions.

In the instant case, plaintiffs have not averred that an order was issued from the Commission, and therefore the plaintiffs have failed to set forth a cause of action pursuant to the Harrisburg Human Relations ordinance.

Although plaintiffs have failed to state causes of action under any of their fifteen counts, we will give plaintiffs leave to amend their complaint with respect to those counts capable of being cured by amendment. In Framlau Corporation v. Delaware County, 223 Pa. Super. 272, 276, 299 A.2d 335, 337 (1972), the court noted

> "[i]n the event a demurrer is sustained because a complaint is defective in stating a cause of action, if it is evident that the pleading can be cured by amendment, a court may not enter final judgment, but must give the pleader an opportunity to file an amended complaint. (citation omitted) This is not a matter of discretion with the court but rather a positive duty."

Plaintiffs are given leave to amend all of the counts in their amended complaint except Count IV. Relying upon the reasoning in Patterson, supra, this court finds that there are no set of facts which plaintiffs could allege which would enable

them to state a cause of action as a matter of-law pursuant to Section 1981.

For the foregoing reasons we enter the following

ORDER

AND NOW, this day of September, 1993, defendants' demurrers to Counts I-XV are granted. Plaintiffs are given leave to amend the following counts: Counts I and II, alleging violations of 42 U.S.C. §1983, Count III alleging a violation of 42 U.S.C. 1985, Counts V-XIII, alleging defamation, Count XIV, alleging wrongful discharge, and Count XV alleging a violation of Harrisburg Ordinance 6-1985. Plaintiffs are not given leave to amend Count IV, alleging a violation of 42 U.S.C. §1981.

BY THE COURT:

/s/
Joseph H. Kleinfelter, Judge

IN THE COURT OF COMMON PLEAS
FOR DAUPHIN COUNTY PENNSYLVANIA

DIANN HARRIS CARTER, JOANNA FOSTER, JOYCE WATERS, GWENDOLYN TOWLES MANNING, DEBORAH ALGER, FRANCES MANNING, DR. ROSEMARY MADL, MARILYN R. LOVELL, CATHY CONSLA, AND RODGER L. BEATTY	: CIVIL ACTION - LAW : : : : : : : : 2271 - 8 - 1992
Plaintiffs	:
V.	:
STANLEY MROZOWSKI, RALPH MOYER, JEFFREY PICCOLA, GARY BEESE, JOHN THOMAS, DAHL KROW, MARK BARTON, LARRY DECKER, DEBORAH GANTT, PATRICIA BARD, WENDY MINNIX, LYNN LOOMIS, SANDY REISINGER, KELLY DUNLAP, IRENE URBAN, INDIVIDUALLY; BOSWELL, SNYDER, TITNER, & PICCOLA, A LAW FIRM, EDGEWATER PSYCHIATRIC CENTER, NORTHWESTERN CORPORATION, DAUPHIN COUNTY MENTAL HEALTH AND MENTAL RETARDATION	: : : : : : : : : : : : : : : : : : : :

CASE MANAGEMENT UNIT	:	
AND DAUPHIN COUNTY	:	JUDGE KLEINFELTER
MENTAL HEALTH AND	:	
MENTAL RETARDATION	:	
COUNSELLING, PRIVATE	:	
CORPORATIONS, AND	:	
DAUPHIN COUNTY A LOCAL	:	
GOVERNMENT ENTITY	:	JURY TRIAL DEMANDED
	:	
Defendants	:	

BEFORE: MORGAN, TURGEON and KLEINFELTER, JJ.

ORDER

AND NOW, this 20th, day of September, 1993, defendants' demurrers to Counts I-XV are granted. Plaintiffs are given leave to amend the following counts: Counts I and II, alleging violations of 42 U.S.C. §1983, Count III alleging a violation of 42 U.S.C. 1985, Counts V-XIII, alleging defamation, Count XIV, alleging wrongful discharge, and Count XV alleging a violation of Harrisburg Ordinance 6-1985. Plaintiffs are not given leave to amend Count IV, alleging a violation of 42 U.S.C. §1981.

BY THE COURT:

/s/
Joseph H. Kleinfelter, Judge

IN THE COURT OF COMMON PLEAS
FOR DAUPHIN COUNTY PENNSYLVANIA

DIANN HARRIS CARTER, JOANNA FOSTER, JOYCE WATERS, GWENDOLYN TOWLES MANNING, DEBORAH ALGER, FRANCES MANNING, DR. ROSEMARY MADL, MARILYN R. LOVELL, CATHY CONSLA, AND RODGER L. BEATTY	: CIVIL ACTION - LAW : : : : : : : : 2271 - 8 - 1992
Plaintiffs	:
V.	:
STANLEY MROZOWSKI, RALPH MOYER, JEFFREY PICCOLA, GARY BEESE, JOHN THOMAS, DAHL KROW, MARK BARTON, LARRY DECKER, DEBORAH GANTT, PATRICIA BARD, WENDY MINNIX, LYNN LOOMIS, SANDY REISINGER, KELLY DUNLAP, IRENE URBAN, INDIVIDUALLY; BOSWELL, SNYDER, TITNER, & PICCOLA, A LAW FIRM, EDGEWATER PSYCHIATRIC CENTER, NORTHWESTERN CORPORATION, DAUPHIN COUNTY MENTAL HEALTH AND MENTAL RETARDATION	:

CASE MANAGEMENT UNIT	:	
AND DAUPHIN COUNTY	:	JUDGE KLEINFELTER
MENTAL HEALTH AND	:	
MENTAL RETARDATION	:	
COUNSELLING, PRIVATE	:	
CORPORATIONS, AND	:	
DAUPHIN COUNTY A LOCAL	:	
GOVERNMENT ENTITY	:	JURY TRIAL DEMANDED
	:	
Defendants	:	

AMENDED COMPLAINT

INTRODUCTORY STATEMENT

The plaintiffs seek redress for the deprivation of their Constitutionally protected rights under the 1st, 4th, 5th and 14th Amendments pursuant to 42 U.S.C. §1983. Plaintiffs also seek relief for the violation of plaintiffs' rights under the Constitution of Pennsylvania and also under Pennsylvania's Common Law and statutes. This is an Amended Complaint brought in response to an order of the Honorable Joseph H. Kleinfetter J., Court of Common Pleas of Dauphin County, Pennsylvania, issued on September 20, 1993 and received by plaintiffs' counsel on September 24, 1993. Under the order plaintiffs' were given leave to amend all Counts of their June 4, 1992 complaint except for those Counts alleging deprivations protected by 42 U.S.C. §1981.

JURISDICTION

1.) This action is brought for violations of plaintiffs' rights under the 1st, 4th, 5th and 14th Amendments to the U.S. Constitution pursuant to 42 U.S.C. 1983, and 42 U.S.C. 1985 and certain state constitutional, common law and statutory claims.

2.) Jurisdiction is vested in this court by virtue of 42 USC §1983; 42 U.S.C. §1985, 28 USC 1343 (a)(3) and (4); 42 USC 1931; and 42 USC 1367 all of which confer jurisdiction and authority to hear suits to redress the deprivation of rights, privileges, and immunities guaranteed under the Constitutional and Federal Statutory provisions enumerated above.

3.) Jurisdiction is vested in this court to hear claims arising under the aforementioned federal laws by virtue of the Supremacy clause to the U.S. Constitution and by virtue of this courts original jurisdiction to hear claims arising under the constitution and laws of the Commonwealth of Pennsylvania and its common law and statute.

PARTIES

4.) Plaintiff Diann Harris Carter (Carter) is an adult woman and is an African-American citizen of the United States of America who resides at 1621 N. 2nd. Street, Harrisburg, Dauphin County, Pennsylvania 17102.

5.) Plaintiff Joanna S. Foster (Foster) is an adult woman and is an African-American citizen of the United States of America who resides at 2647 Waldo Street, Harrisburg, Dauphin County Pennsylvania 17110.

6.) Plaintiff Joyce Waters (Waters) is an adult woman and is an African-American citizen of the United States of America who resides at 1516 Dogwood Drive, Harrisburg, Dauphin County Pennsylvania 17110.

7.) Plaintiff Gwendolyn Towles Manning (Gwen Manning) is an adult woman and is an African-American citizen of the United States of America who resides at 1548 Creek Bed Drive, Harrisburg, Dauphin County Pennsylvania 17110.

8.) All plaintiffs above are black, are female, and held management positions at the Rosalie G. Handler Center in Harrisburg, Dauphin County, Pennsylvania.

9.) Plaintiff Deborah Alger (Alger) is an adult woman, is a lesbian and is a citizen of the United States of America who resides at 41 Argyle Street, Harrisburg, Dauphin County Pennsylvania 17104.

10.) Plaintiff Frances Manning (Manning) is an adult woman, and is a citizen of the United States of America who resides at 416 Center Street, Millersburg, Dauphin County, Pennsylvania 17061.

11.) Plaintiff Dr. Rosemary Madl (Madl) is an adult woman, is a lesbian and is a citizen of the United States of America who resides at 1407 North Front Street, Harrisburg, Dauphin County, Pennsylvania 17102.

12.) Plaintiff Marilyn R. Lovell (Lovell) is an adult woman, and is a citizen of the United States of America who resides at 250 Timber Trail Lane, Harrisburg, Dauphin County, Pennsylvania 17112.

13.) Plaintiff Cathy Consla (Consla) is an adult woman, is a lesbian, and is a citizen of the United States of America who resides at 2045 Market Street, Extension, Middletown, Dauphin County, Pennsylvania 17057.

14.) Plaintiff Rodger L. Beatty (Beatty) is an adult man, is gay, and is a citizen of the United States of America who resides at 6103 Stanton Avenue, Pittsburgh, Allegheny County, Pennsylvania 15206.

15.) The defendant Stanley Mrozowski (Mrozowski) sued here in his individual capacity is an adult man, residence address unknown, who at all times relevant to this action was the Administrator of the Dauphin County Mental Health Mental Retardation Program.

16.) The defendant Ralph Moyer (Moyer) sued here in his individual capacity is an adult man, residence address unknown, who at all times relevant hereto was Director of Dauphin County Human Services.

17.) The defendant Jeffrey Piccola (Piccola) sued here in his individual capacity is an adult individual who at all times relevant hereto was a member of the Harrisburg law firm of Boswell, Synder, Titner & Picolla.

18.) The defendant John Thomas (Thomas) is an adult male, residence address unknown, who at all times herein complained of was employed by Edgewater Psychiatric Center as a social worker.

19.) The defendant Dahl Krow, sued here in his individual capacity, is an adult male, residence address unknown, who at all times herein complained of worked for the defendant Dauphin County as a contract monitor.

20.) The defendant Mark Barton, sued here in his individual capacity, is an adult male, residence address unknown, who at all times herein complained of worked for the defendant Dauphin County as a mental health specialist.

21.) The defendant Larry Decker (Decker), sued here in his individual capacity, is an adult male, residence address unknown, who at all times relevant hereto was employed by the Commonwealth of Pennsylvania as the DPW-OMH Licensure representative for the DPW Central Regional Office.

22.) The defendant Gary Beese (Beese) sued here in his individual capacity, residence address unknown, is an adult male who at all times relevant hereto was employed as Community program Manager by the Commonwealth of Pennsylvania (DPW) Community Mental Health Services.

23.) The defendant Deborah Gantt (Gantt), sued here in her individual capacity, is an adult woman, residence address uncertain, who at all times relevant hereto was employed at the Rosalie G. Handler Center as a mental health case manager.

24.) The defendant Patricia Bard (Bard), sued here in her individual capacity, is an adult woman residence address uncertain, who at all times relevant hereto was employed at the Rosalie G. Handler Center as a therapist.

25.) The defendant Wendy Minnix (Minnix), sued here in her individual capacity, is an adult woman, residence address uncertain, who at all times relevant hereto was employed at the Rosalie G. Handler Center as a therapist.

26.) The defendant Lynn Loomis (Loomis), sued here in her individual capacity, is an adult woman, residence address uncertain, who at all times relevant hereto was employed at the Rosalie G. Handler Center as a case management supervisor.

27.) The defendant Sandy Reisinger (Reisinger), sued here in her individual capacity, is an adult woman, residence address uncertain who at all times relevant hereto was employed at the Rosalie G. Handler Center as a case manager.

28.) The defendant Kelly Dunlap (Dunlap), sued here in her individual capacity, is an adult woman, residence address uncertain, who at all times relevant hereto was employed at the Rosalie G. Handler Center as a case manager.

29.) The defendant Irene Urban (Urban), sued here in her individual capacity, is an adult woman, residence address uncertain, who at all times relevant hereto was employed at the Rosalie G. Handler Center as the fiscal coordinator.

30.) The defendant Boswell, Synder, Titner, & Piccola (law firm) is a law firm located at 315 N. Front Street, Harrisburg, Dauphin County, Pennsylvania, 17108, who at the times herein complained of was employed as the solicitor for Dauphin County.

31.) The defendant Edgewater Psychiatric Center (Edgewater) is a Pennsylvania Corporation headquartered at 1829 N. Front Street, Harrisburg, Dauphin County, Pennsylvania, 17102, and is involved in the treatment of acute psychiatric disorders.

32.) The defendant Northwestern Corporation (Northwestern) is a Pennsylvania Corporation headquartered at 906 Bethlehem Pike, Erdenheim, Pennsylvania, 19118, and is engaged in various for profit and not for profit activities.

33.) The defendants Dauphin County Mental Health Mental Retardation Case Management Unit and Dauphin County Mental Health and Mental Retardation Counselling (DCMHC), are private entities run and controlled by the defendant Mrozowski and Moyer having their headquarters at 1919 N. Front Street, (Handlers old address, whose business they were assigned) in Harrisburg, Pennsylvania, engaged in the business of providing mental health care to local area persons. These entities are collectively referred to hereinafter as DCMHC's.

34.) The defendant County of Dauphin, sued here as a local government agency, is a municipal corporate entity under Pennsylvania law, having its seat of operations in Harrisburg, Pennsylvania, at Front and Market Streets.

OPERATIVE FACTS

35.) All plaintiffs at all times relevant hereto were employed at the Rosalie G. Handler Center and had demonstrated a high degree of professional skill. Handler provided counseling and other services for persons with mental difficulties.

36.) All plaintiffs were fully qualified to perform and did perform their assigned tasks promptly, properly, competently, and consistently on a regular basis.

37.) All plaintiffs at all times complied with, met, or exceeded the high standards and expected behavior of trained and experienced professionals dealing with emotionally disturbed persons.

38.) The plaintiffs Carter, Foster, Waters, and Gwen Manning are all African American females who held high management and or Board positions at the Rosalie G. Handler Center (Handler) prior to June 15, 1990.

39.) The plaintiffs Lovell and Frances Manning are females who held high management positions at Handler prior to June 15, 1990.

40.) The plaintiffs Madl, Consla, and Alger are females, are lesbian, and held high management and or staff positions at Handler prior to June 15, 1990; the plaintiff Madl (Ph.D) was CEO at Handler.

41.) The plaintiff Beatty is a male, is gay, and held a high management position at Handler prior to June 15, 1990.

42.) All plaintiffs were replaced after June 15, 1990 by white, male persons, all of whom were non gay or non lesbian.

43.) All plaintiffs were replaced by persons less qualified and/or less capable than plaintiffs.

44.) All plaintiffs were systematically harassed, intimidated, and injured by falsehoods as to their character, job performance, and/or professional qualifications by the defendants in various combinations prior to June 15, 1990.

45.) On June 15, 1990 all plaintiffs were summarily dismissed from their positions at Handler without just cause, wrongfully, on account of their race, sex, and/or sexual orientation in certain cases in violation of their civil rights and in violation of state law and/or ordinances of the City of Harrisburg by defendants acting jointly and severally under color of state law through state action.

46.) All plaintiffs believe and therefore aver that their rights to substantive and procedural due process and their rights to enjoy the equal protection of the laws were violated by the defendants jointly and severally acting through the power and influence of the defendants here who were government employees, illegally under color of state law, wherein defendants illegally agreed among themselves to disrupt, destroy, harass, intimidate and defame plaintiffs variously on account of plaintiff's respective race, sex, and/or sexual orientations in order to harm the plaintiffs and also to destroy Handler Center to effectuate the movement of Handler clientele and business to the defendants Edgewater, Northwestern, Dauphin County and DCMHC's.

47.) Plaintiffs do not know every the precise date or the time of every meeting among the defendants at which the deliberate and intentional plans to harm and injure plaintiffs, destroy Handler and thus refer Handler business to defendants Edgewater, DCMHC's, and Northwestern occurred, but plaintiffs allege and aver that unlawful combinations for unlawful purposes were participated in

by all defendants named here throughout at least from 1989 and 1990 up until and after June 15, 1990 at which time Handler was illegally seized and destroyed by defendants all by virtue of defendant's unlawful actions.

48.) The defendant Mrozowski; participated in, helped direct, facilitate, and then manipulated the systematic misinformation as to the qualifications and alleged misbehavior of plaintiffs that led to their injuries by, among other things, soliciting and directing the writing of defamatory statements used to discredit plaintiffs.

49.) The defendant Mrozowski knowingly verified as true and correct what he knew to be patently misleading, inaccurate, and dishonest, i.e. false statements about the plaintiffs, made by other defendants herein, endorsing the defamatory statements as accurate without any investigation and without any hearing,
intentionally seeking and wanting reasons to discredit plaintiffs, thus providing all defendants access to Handler business and resources which was an ulterior motive of Mrozowski's.

50.) The defendant Moyer also participated in and helped direct and facilitate (in the same manner as Mrozowski) the dissemination of false and defamatory misinformation as to the qualifications and conduct of plaintiffs that led to their injuries and the dissolution of Handler thus providing all defendants access to Handler business and resources which was an ulterior motive of Moyer's.

51.) The defendant Moyer, while verifying misleading, inaccurate, dishonest, and false statements made by other defendants here about plaintiffs, endorsing them as accurate while knowing they were untrue, and that plaintiffs had no hearing in any forum on these matters, also told Dauphin County Commissioner Peters on or about the middle of March 1990 that "we're going to get rid of them" meaning the plaintiffs, and in particular referred to

the gay - lesbian plaintiffs meaning they were undesirables targeted for removal from Handler for no just cause.

52.) The defendant Piccola took the defamatory, inaccurate, and dishonest affidavits of other defendants herein knowing them to be unverified and knowing plaintiffs had never been confronted with them, to the floor of the Pennsylvania House of Representatives where he improperly made reference to and discussed the defamatory statements as he later did with reporters and others in unprivileged circumstances, to wit with reporters for the Harrisburg Patriot News.

53.) The plaintiffs believe and therefore aver that defendant Piccola improperly took these statements from his law firm, which serves as solicitor for Dauphin County, and publicized them in support of all the defendants' joint efforts to injure and harm plaintiffs.

54.) The defendant Gary Beese supported the unlawful actions of the defendants, knowingly, through the exaggerated use of his authority over licensing procedures in Pennsylvania to infer, imply, and otherwise create grounds for the other defendants, particularly the defendants Mrozowski, Moyer, DCMHC's, and Dauphin County to charge mismanagement at Handler.

55.) The defendant Larry Decker supported the unlawful actions of the defendants, knowingly, through the exaggerated use of his authority over licensing procedures in Pennsylvania to infer, imply, and otherwise create grounds for the other defendants, particularly the defendants Mrozowski, Moyer, DCMHC, and Dauphin County to charge mismanagement at Handler.

56.) The defendant Thomas, an employee of defendant Edgewater generated false reports of mismanagement at Handler wherein he claimed that the plaintiff Foster, an African American

woman, was not attending after - care follow-up meetings when in fact it was he, Thomas, who would not attend these meetings though he knew or should have known she was properly attending.

57.) Plaintiffs believe and therefore aver that the defendant Thomas created false reports about Foster and did not attend after - care meetings on account of Foster's race then later joined in an inaccurate reporting of these facts to create false grounds to discredit Foster and assist in her removal from Handler.

58.) The defendant Gantt, unlawfully, with malice aforethought, intentionally knowing her accusations to be false, inter alia made verbal and written statements on or about June, 1990 accusing the plaintiffs Lovell, Beatty, Foster, and Waters, her supervisors, of gross neligience [sic] and criminal misconduct all of which were incorrect, false, and defamatory, were unprivileged, and were communicated to third persons.

59.) The defendant Bard unlawfully, with malice aforethought, intentionally knowing her accusations to be false, inter alia made written and verbal statements on or about June, 1990 which were incorrect, false, and defamatory, that the plaintiffs Carter, Madl, Lovell, and Richard Laban who is not a plaintiff here were guilty of criminal acts and gross mismanagement.

60.) The defendant Minnix unlawfully, with malice aforethought, intentionally knowing her accusations to be false on or about May and June of 1990 made false statements accusing plaintiffs Gwen Manning and Madl of criminal acts and indifference to the well being and safety of Handler clients.

61.) The defendant Loomis unlawfully, with malice aforethought, intentionally knowing her accusations to be false, on or about June 1990 made false statements that the plaintiffs Lovell,

Gwen Manning, Madl, Beatty, Waters, and Carter had committed criminal acts at Handler and that they were incompetent.

62.) The defendant Reisinger unlawfully, with malice aforethought, intentionally knowing her accusations to be false, made false statements that were incorrect, false, and defamatory, particularly as to plaintiffs Gwen Manning, Madl, Beatty, and Frances Manning accusing them of criminal and reckless acts at Handler on or about June 1990.

63.) The defendant Dunlap unlawfully, with malice aforethought, intentionally knowing her accusations to be false, made false statements which were incorrect, false, and defamatory, particularly as to plaintiffs Foster and Alger accusing them of criminal misconduct and reckless treatment of Handler clients on or about June 1990.

64.) The defendant Urban unlawfully, with malice aforethought, intentionally knowing her accusations to be false, on or about June 1990 made false statements about the plaintiffs Beatty Madl, Frances Manning, and Consla accusing them of criminal misconduct at Handler.

65.) Plaintiffs believe and therefore aver that all defendants referred to in paragraphs 56 through 64 above knowingly gave false and misleading statements to purported authorities who publically referred to their aforementioned statements as proof of criminal misconduct at Handler to newspapers, radio, and television in the Harrisburg area seeking to harm plaintiffs while seeking favors in the form of promotions, jobs, or for personal reasons, all of which was known to defendants Mrozowski, Moyer, and defendant Dauphin County by and through the Commissioners thereof.

66.) The defendant law firm knowingly abused and used client information, without investigation or notice to plaintiffs,

which they had taken from the defendants Gantt, Bard, Minnix, Loomis, Reisinger, Dunlap, and Urban, on behalf of defendant Dauphin County and provided this information to defendant Piccola who released this information to the public and press knowing the plaintiffs had never had an opportunity to confront the statements against them and did all of this as part of a broader plan to discredit plaintiffs individually and as a group thus causing injury to plaintiffs professional and personal reputations, their loss of employment, and loss of personal freedom.

67.) At the time the defamatory information referred to above was disseminated by the defendant law firm and the defendant Piccola, a legislative investigation was pending before the Pennsylvania House of Representatives.

68.) Plaintiffs believe and therefore aver that the injurious, wrongful, and inaccurate publicity orchestrated by all defendants by and through defendant Piccola and the defendant law firm and through the defendant Mrozowski who appeared on television on June 16, 1990 and stated that the plaintiffs had committed criminal acts and that criminal charges would be brought against plaintiffs and that he (Mrozowski) had fired them (plaintiffs') was designed to deter, discourage, or otherwise influence an open, objective, and complete airing of the accusations against plaintiffs and others in the press and in the legislature, by Handler and plaintiffs.

69.) Plaintiffs believe and therefore aver that they were victimized by defendants to avoid the exposure of the improper relationship among defendants and their unlawful plans to dissolve Handler and direct its resources for their own benefit.

70.) The defendant Edgewater was in serious financial difficulty on or about 1988 through June 15, 1990 all of which was known to all the defendants here.

71.) The defendant Edgewater needed, inter alia, the partial program at Handler to survive financially, and this was well known to the defendants herein and was consistently pursued by them for Edgewater at the behest of Northwestern.

72.) The defendant Edgewater by and through the other defendants here participated in and encouraged the destruction of Handler thus injuring plaintiffs in order to gain access and control of Handler's partial program and case management resources.

73.) The plaintiffs believe and therefore aver that defendant Edgewater was over $500,000.00 in debt to defendant Dauphin County when acquired by the defendant Northwestern Corporation.

74.) Plaintiffs believe and therefore aver that the defendant Northwestern acquired Edgewater and agreed to assume the $500,000.00 debt Edgewater owed the defendant Dauphin County.

75.) The defendant Northwestern has never to the best of plaintiffs belief ever paid the Edgewater debt and has avoided its commitment to satisfy the said debt as a condition to taking Edgewater.

76.) Plaintiffs also believe and therefore aver that the defendant Northwestern sought and took control of Handler's C.O.N. (Certificate Of Need) in violation of Commonwealth regulations as to transfer and control of this valuable resource all of which was done by and through the concerted efforts of certain defendants.

77.) All the above was accomplished by and through the above defendants acting under color of state law through state action, victimizing the plaintiffs, along with Handler, to accomplish their illegal ends which were to discriminate against plaintiffs and effect the acquisition and control of Handlers' services.

78.) The defendants accomplished this goal partly by collecting defamatory statements about plaintiffs from certain defendants - namely Gantt, Bard, Minnix, Loomis, Reisinger, Dunlap, and Thomas, on or about May and June of 1990, and publishing them in the media in order to defame plaintiffs and destroy plaintiffs individual and collective reputations and credibility.

79.) Defendants painted Handler as mismanaged by the plaintiffs, who the defendants falsely accused for ulterior purposes in various combinations, at different times, of criminal misconduct, incompetence, and various unethical practices.

80.) Plaintiffs also believe and therefore allege that these false accusations were planned and effectuated because plaintiffs were black, female, and in certain cases gay and or lesbian, because defendants wished to harm them for these reasons alone.

81.) After planning trumped up, false, and defamatory statements about plaintiffs individually, about plaintiffs' as a group, and about Handler as an institution, the defendants orchestrated an abusive, dishonest, politicized, legal legislative, and media strategy to mask their prejudices and accomplish their illegal ends.

82.) The aforementioned strategies included a hearing devoid of due process where no testimony was taken, where plaintiffs were never given an opportunity to confront charges against them, or to participate in any way and which resulted inter alia the same day in an illegal search and seizure of Handler by defendants who forcibly removed plaintiffs from their jobs and in press conferences where Mrozowski among others referred to plaintiffs as criminals.

83.) In excess of the authority granted in a questionable court order on June 15, 1990, the plaintiffs were, without warning, physically forced out of their offices, their rights to be secure in

their persons and property violated by virtue of an improperly conceived and improperly executed court order achieved through fraudulently procured statements by the defendant Mrozowski on account of their race, sex, and/or sexual orientation all in violation of their procedural and substantive due process rights to be free of abusive governmental power unrelated to any reasonable government objectives.

84.) All the above occurred in violation of a contract between Dauphin County and Handler which was due to expire within two weeks of the seizure, i.e. on June 30, 1990, except that defendant Dauphin County had never executed the 30 day notice of termination provisions required by the contract having only expressed their plan to take the partial hospitalization program.

85.) When Handler noticed the defendant Dauphin County that it wished to appeal the action, the Handler Board was told that criminal charges would be brought against the CEO Dr. Rosemary Madl, a plaintiff here, and that there would be "other actions taken" unless Handler signed over all its assets immediately to the defendant Dauphin County lock, stock, and barrel.

86.) As a result of the abuse in the media on or about early June 1990, where the defendant Picolla and others had publically proclaimed that the "Handler Board is rotten to the core" and the constant threats emanating from defendants, some of whom had told plaintiffs they were going to be replaced, the Handler Board, under duress, dissolved the Rosalie G. Handler Center on or about July, 1992.

87.) The actions of the defendants injured plaintiffs in their reputations personally and professionally, and caused them to be unemployed, subjected them to threats of arrest and public charges of criminal misconduct and forcibly excluded them from their place of work, and destroyed their jobs, replacing them with other

persons, subjecting them to threats of retaliation should they resist and to ridicule, depriving plaintiffs of their rights to be secure in their persons and properties, and depriving them of their right to substantive due process of law i.e. to be free of the abusive application of government power without any reasonable government objective, and their rights to enjoy the privileges and immunities guaranteed them under the Constitution and laws of the United States of America as further defined by 42 USC 1983 42 USC 1985, and the Constitution and laws of Pennsylvania including Pennsylvania's Constitution Article I Sections 1, 26, and 28 which prohibits injury to reputation sexual discrimination, and abuse by government at the hands of abusive state government entities and officials as here.

88.) The defendants intentionally violated plaintiffs rights to enjoy rights, privileges and immunities quaranteed [sic] by the Constitution and laws of the United Sates of America and of Pennsylvania, all on account of their race, sex, age, and/or sexual orientation.

89.) Plaintiffs allege that defendants acts were knowing acts of invidious discrimination, prohibited by the Constitution and Laws of the United Sates of America, and of Pennsylvania, including the ordinances of the City of Harrisburg prohibiting discrimination in employment on account of sexual choices or orientations.

90.) The defendants agreed together unlawfully for unlawful purposes to knowingly remove plaintiffs from their positions.

91.) The defendants Dahl Krow and Mark Barton in knowing unlawful violation of the June 15, 1990 court order misrepresented and effectuated same by causing all plaintiffs to be removed forcibly from their positions under armed threat pursuant to their purported authority as Dauphin County officials.

92.) Defendants' claims of authority under the Court order of June 15, 1990 were in excess of the order, and the forcible removal of plaintiffs from their employment and their termination of employment by the defendants by and through the sheriff of Dauphin County constituted a wrongful discharge of plaintiffs by the defendants by virtue of the defendants' take over of Handler.

93.) The defendants, in addition to manifesting their injuries to plaintiffs for reasons of race, sex, and sexual orientations, conspired unlawfully to injure plaintiffs as a means to acquire control of Handler for financial purposes through state action under color of state law.

94.) Contrary to the publically stated falsehoods and claims of mismanagement made by the defendants regarding Handler the plaintiffs were doing their jobs in an exemplary fashion but, nonetheless in some cases were replaced on or about June 15, 1990 by those who had earlier been discharged or disciplined for incompetence, such as the defendant Urban.

95.) All parties named as defendants herein, excepting individual persons, are recipients of County, State, and Federal funds.

96.) Plaintiffs believe and therefore aver that in addition to the invidious violations of their civil rights, and the wrongful discharges and defamations they suffered through defendants' actions, that plaintiffs were victims of an unlawful conspiracy to 21 destroy Handler by the defendants in order that defendants might unlawfully enjoy the financial fruits gained thereby.

97.) The actions of all defendants were unlawful, were known by them to be unlawful, and were in violation of plaintiff's rights under various federal, state, and local laws.

98.) No plaintiff in this action is a public figure.

COUNT I

ALL PLAINTIFFS AGAINST ALL DEFENDANTS FOR THE DEPRIVATIONS OF THEIR 1ST, 4TH, 5TH AND 14TH AMENDMENT RIGHTS AND FOR CONSPIRACY TO DEPRIVE PLAINTIFFS OF THEIR AFOREMENTIONED RIGHTS IN VIOLATION OF THEIR CIVIL RIGHTS PURSUANT TO 42 U.S.C. §1983

99.) Paragraphs 1 through 98 above are incorporated by reference herein and made a part hereof.

100.) The defendants, by and through the use of state power, under color of state law, destroyed Handler unlawfully and unlawfully deprived plaintiffs of their property interest in employment and injured them in their professional credentials, and subjected them to an unlawful exclusion from their proper place of work in violation of their rights to be secure in their persons and property and deprived them of their protected interest in substantive due process whereby they have a right to be free of the abuse of government power and authority where government power is invoked in the pursuit of non government goals without any reasonable government objectives.

101.) The defendants unlawfully, under color of state law, through state action, removed plaintiffs from their justifiably earned positions because of their race in the cases of the plaintiffs Carter, Foster, Waters, Gwen Towles Manning, also intentionally removing plaintiffs on account of their sex in the case of all plaintiffs except the plaintiff Beatty and additionally on account of sexual preference in the cases of the plaintiffs Madl, Consla, Alger, and Beatty.

102.) The defendants, sometimes individually and sometimes in concert, but at all times by and through their positions as state employees and/or officials acted under color of state law and their unlawful conduct manifested itself as state action in that defendants:

a.) Intentionally defamed plaintiffs, and injured them professionally.

b.) Caused plaintiffs to be unemployed and adversely affected their ability to form associations, to speak or to earn a living.

c.) Caused plaintiffs to be forcibly ejected from their place of employment under threat of armed force based upon a Court order which was fraudulently procured.

d.) Caused plaintiffs to be injured in their professional credentials, and falsely denigrated their credentials and qualifications to perform on account of their race, sex, and/or sexual orientation.

e.) The conduct of the defendants deprived plaintiffs of their right to substantive due process of law being in violation of plaintiffs' 1st, 4th, 5th, and 14th Amendment rights to be free of the abusive use and application of government power devoid of any reasonable government objective whereby plaintiffs were injured in their loss of free speech and associations, under the 1st Amendment, and of the freedom of movement and to travel freely, under the 1st and 4th Amendments, to be free from arbitrary seizures and to be free from the forcible removal from their employment under the 1st and 4th Amendment and to be free from the loss of their jobs and to suffer diminished earning capacity under the 1st and 5th Amendments, and to be free of all of the above which resulted from the arbitrary, cruel, unwarranted, ulterior, abusive, and unreasonable application of government power

without any reasonable government objective all of which is prohibited by the 14th Amendment.

103.) The defendants in various combinations throughout 1989 and 1990, up to and including the months after the June 15, 1990 seizure of Handler, met and decided to destroy Handler by and through attacks on plaintiffs as is evidenced by the following:

a.) The defendants Mrozowski and Moyer on or about Oct 19, 1989 met with Dauphin County Commissions in Harrisburg, Pennsylvania and discussed inter alia Northwestern's need for Handler's partial hospitalization program without which Edgewater would go out of business. Also discussed was Northwestern's request for a 20 million dollar bond issue. Handler's Board and management were kept in the dark.

b.) On or about January 11, 1990 the defendants Mrozowski, Moyer, Edgewater, Krow, and others participated in a meeting in Harrisburg, Pennsylvania in which a plan to remove minority managers at Handler was discussed. At this meeting Mrozowski said that by July 1, 1990 furloughed White men would be back replacing the Black and Gay managers at Handler.

c.) At the January 18, 1990 Dauphin County MH/MR Executive Committee meeting the defendants Mrozowski and Moyer, with the defendants Barton and Krow present, indicated that the new hires and promotions at Handler were not "quality" nor acceptable to County officials as replacement managers. New hires were plaintiffs Gwen Manning (Black woman), and plaintiff Rodger Beatty (Gay). Promotions were plaintiff Diann Carter (Black woman) and plaintiff Marilyn Lovell (White woman). At this meeting the defendant Barton presented a paper entitled "Troubled times" having to do with a case management RFP.

d.) On or about the morning of February 16, 1990 in Harrisburg, Pennsylvania the defendants Mrozowski and Moyer, along with members of the Dauphin County MH/MR Advisory Board, met to plan a phoney RFP (Request For Proposal whereby Handler would not receive funds specifically because the "qualifications" of Dr. Madl and other Handler management was not satisfactory to Dauphin County officials. At an afternoon meeting the same day Mrozowski and others stated that the RFP was only pro-forma and that Handler would undoubtedly be refunded. Mrozowski and others also openly stated that there were no problems with Handler.

e.) On or about mid-March 1990 in Harrisburg, Pennsylvania the defendant Moyer, following an earlier meeting with Commissioner Sally Klein related to Commissioner Carol Peters that he had a plan to reorganize Handler because "Dr. Madl is a lesbian" indicating the plan was a faite accompli.

f.) On or about April 10, 1990, in Harrisburg, Pennsylvania the defendant Mrozowski along with state officials met with the Dauphin County Commissioners to discuss a plan to de-head Handler's case management supervisors who were Rodger Beatty (gay), Joanna Foster (Black woman) and Joyce Waters (Black woman). When pressed by Commissioner Carol Peters for specifics as to Mrozowski's claims that there were complaints and problems at Handler, Mrozowski could cite none and merely said he couldn't get along with current mangers at Handler.

g.) On or about June 10-13 1990 in Harrisburg, Pennsylvania, the defendant Jeffrey Picolla told newspaper reporters and television crews that "gross negligence" and "criminal misconduct" had been committed by Handler's management i.e. the plaintiffs. Piccola later told plaintiff Joyce Waters in a letter (August 1990) that he had met with current and former staff

members (some listed as defendants herein) prior to his publically disseminated June 13, 1990 defamatory outburst.

h.) On or about June 15, 16, and 17th 1990, their claims to the contrary notwithstanding, the defendants Mrozowski and Moyer, by with and through the authority of the Commissioners of Dauphin County, having conspired with, on or before June 15, 1990, the defendant Dahl Krow, did summarily dismiss the plaintiffs having forcibly taken control of all of Handler's property, assets, and operations on June 15, 1990.

i.) On or about December 15, 1990 in Harrisburg, Pennsylvania Yolanda Swan, Pennsylvania Human Relations Commission investigator (after 36 hours of fact finding) wrote in a report that beginning with January 11, 1990 Dauphin County deliberately set up the conditions at Handler to dismantle the organization because a woman was in charge. Swan also observed that Dauphin County also did not like the visibility of the Black female managers at Handler.

j.) On or about the Spring of 1991, the incumbent County Commissioner Sally Klein caused to be published a brochure, by, through, and with the defendant Piccola, which was disseminated throughout Dauphin County, wherein she said she was forced to close Handler center because of "irregularities in medication record keeping" and because of a "backlog" of treatment." Klein had also mentioned this in her February 1991 state of the County address delivered in Dauphin County. These allegations were false.

k.) On or about March of 1991 the defendant Moyer met with then County Commissioner candidate Marilyn Levin in Harrisburg, Pennsylvania, and told her that the Handler center had to be closed because it was overrun with lesbians who were attacking clients and other staff. These misrepresentations were totally false and were known by Moyer to be false.

l.) Meanwhile, almost a year earlier, in May of 1990 in Harrisburg, the defendant Gantt told MR case manager Sharon Grady that once Dauphin County took over at Handler that MR case managers at Handler would know what it feels like to lose their supervisors, in direct reference to the Black women plaintiffs, Joyce Waters and Joanna Foster.

WHEREFORE the plaintiffs demand judgement of the defendants jointly and severally for the deprivations of their federally protected rights, and for conspiracy to deprive them of their federally protected rights pursuant to 42 U.S.C. §1983 in an amount greater than $50,000.00 together with costs of suit, interest, fees, and such other relief as the Court may deem appropriate.

COUNT II

ALL PLAINTIFFS AGAINST ALL DEFENDANTS FOR CONSPIRACY TO DEPRIVE PLAINTIFFS OF THEIR CIVIL RIGHTS PURSUANT TO 42 USC 1985

104.) Paragraphs 1 through 103 above are incorporated by reference herein and made a part hereof including the highly specific averments of fact made therein.

105.) The actions of all the defendants were unlawful in that the defendants agreed in various combinations as aforementioned to cooperate together for the unlawful purpose of depriving plaintiffs of their rights to enjoy the equal protections of the laws, rights, privileges, and immunities of the Constitution and laws of the United States of America pursuant to 42 USC 1985 as aforementioned.

106.) Defendants actions were exhibitions of a class based animus directed at plaintiffs on account of plaintiffs' race, sex

and in some cases also sexual orientation all of which did cause plaintiffs great harm by creating a false set of facts for a court hearing, caused injury to plaintiffs' careers, and replaced them at their jobs.

WHEREFORE the plaintiffs demand of the defendants jointly and severally damages in an amount in excess of $50,000.00 for the deprivation of their rights to be free of conspiracies to deprive them of the equal protections of the laws and the aforementioned Constitutional rights pursuant to 42 U.S.C. §1983 together with costs, fees, and such other relief as the Court may deem appropriate.

COUNT III

ALL PLAINTIFFS AGAINST ALL DEFENDANTS FOR CIVIL CONSPIRACY TO DEFAME PLAINTIFFS, DEPRIVE PLAINTIFFS OF THEIR CIVIL RIGHTS, CAUSE THE WRONGFUL DISCHARGE OF PLAINTIFFS, AND TO DISCRIMINATE AGAINST PLANTIFFS ON ACCOUNT OF THEIR RACE, SEX, AND SEXUAL PREFERENCE.

107.) Paragraphs 1 through 106 above are incorporated by reference herein and made a part hereof including the specific factual averments made therein.

108.) The actions of defendants were unlawful in that they unlawfully agreed to defame plaintiffs and planned to deprive plaintiffs of their positions knowingly, with malice aforethought for the unlawful purpose of causing plaintiffs' wrongful discharge and of replacing plaintiffs in their employment, and to discriminate against and harm plaintiffs on account of their race,

sex, and/or sexual preference thus depriving plaintiffs of their constitutionally and statutorily protected civil rights both federally and under Pennsylvania law.

WHEREFORE the plaintiffs demand of the defendants jointly and severally an amount in excess of $50,000.00 together with costs of suit and such other relief as may be deemed appropriate.

COUNT IV

ALL PLAINTIFFS AGAINST ALL DEFENDANTS FOR GROUP DEFAMATION

109.) Paragraphs 1 through 108 above are incorporated by reference herein and made a part hereof including the specific factual averments made therein.

110.) The plaintiffs were identified by defendants as members of a definitive, recognizably small group, known generally as Handler management.

111.) A recipient of communications about Handler management could and would identify the individual plaintiffs as members of that group. These recipients included the general public, Dauphin Counties' attorney Joshua Lock, and Judge Buckingham.

112.) Defendants regularly defamed the management of Handler and as a group (i.e. the plaintiffs) the Handler Board, thus injuring plaintiffs, variously referring to them as criminals, as carrying on criminal misconduct, as being incompetent, and as being professionally unqualified, all of which was totally false.

113.) Defendants by defaming plaintiffs (each identifiable as a member of a small discernable group) injured plaintiffs in their reputations and injured them in their professional credentials and reputations, holding plaintiffs up to scorn and ridicule and lowering them in the eyes of the community.

114.) Plaintiffs are not, and were not, public figures.

115.) The actions of the defendants were in no way privileged.

WHEREFORE plaintiffs demand judgement of defendants jointly and severally in an amount in excess of $50,000.00 together with costs of suit, fees, and such other relief as may be deemed appropriate.

COUNT V

THE PLAINTIFFS LOVELL, BEATTY, FOSTER, AND WATERS AGAINST THE DEFENDANT GANTT FOR DEFAMATION

116.) Paragraphs 1 through 115 are incorporated by reference herein and made a part hereof including.

117.) On or about June 6, 1990 the defendant Gantt made certain written and verbal statements containing false averments as aforementioned, which by reference and definition identified the plaintiffs above and charged them with actions and behavior as aforementioned that were disseminated publically on radio and television and in newspapers, that if true would constitute negligent, and criminal behavior all of which was false but which harmed plaintiffs jointly and severally along with all other plaintiffs to this action.

WHEREFORE plaintiffs demand judgement of defendants jointly and severally in an amount in excess of $50,000.00 together with costs of suit, fees, and such other relief as may be deemed appropriate.

COUNT VI

THE PLAINTIFFS CARTER, MADL, AND LOVELL AGAINST THE DEFENDANT BARD FOR DEFAMATION

118.) Paragraphs 1 through 117 are incorporated by reference herein and made a part hereof.

119.) On or about June 6, 1990 the defendant Gantt made certain written and verbal statements containing false averments as aforementioned, which by reference and definition identified the plaintiffs above and charged them with actions and behavior as aforementioned that were disseminated publically on radio and television and in newspapers, that if true would constitute negligent, and criminal behavior all of which was false but which harmed plaintiffs jointly and severally along with all other plaintiffs to this action.

WHEREFORE plaintiffs demand judgement of defendants jointly and severally in an amount in excess of $50,000.00 together with costs of suit, fees, and such other relief as may be deemed appropriate.

COUNT VII

THE PLAINTIFFS GWEN TOWLES MANNING AND MADL AGAINST THE DEFENDANT MINNIX FOR DEFAMATION

120.) Paragraphs 1 through 119 are incorporated by reference herein and made a part hereof.

121.) On or about June 6, 1990 the defendant Gantt made certain written and verbal statements containing false averments as aforementioned, which by reference and definition identified the plaintiffs above and charged them with actions and behavior as aforementioned that were disseminated publically on radio and television and in newspapers, that if true would constitute negligent, and criminal behavior all of which was false but which harmed plaintiffs jointly and severally along with all other plaintiffs to this action.

WHEREFORE plaintiffs demand judgement of defendants jointly and severally in an amount in excess of $50,000.00 together with costs of suit, fees, and such other relief as may be deemed appropriate.

COUNT VIII

THE PLAINTIFFS LOVELL, GWEN TOWLES MANNING, MADL, BEATTY, WATERS AND CARTER AGAINST THE DEFENDANT LOOMIS FOR DEFAMATION

122.) Paragraphs 1 through 121 are incorporated by reference herein and made a part hereof.

123.) On or about June 6, 1990 the defendant Gantt made certain written and verbal statements containing false averments as aforementioned, which by reference and definition identified the plaintiffs above and charged them with actions and behavior as aforementioned that were disseminated publically on radio and television and in newspapers, that if true would constitute negligent, and criminal behavior all of which was false but which harmed

plaintiffs jointly and severally along with all other plaintiffs to this action.

WHEREFORE plaintiffs demand judgement of defendants jointly and severally in an amount in excess of $50,000.00 together with costs of suit, fees, and such other relief as may be deemed appropriate.

COUNT IX

THE PLAINTIFFS GWEN TOWLES MANNING, MADL, BEATTY, AND FRANCIS MANNING AGAINST THE DEFENDANT REISINGER FOR DEFAMATION

124.) Paragraphs 1 through 123 are incorporated by reference herein and made a part hereof.

125.) On or about June 6, 1990 the defendant Gantt made certain written and verbal statements containing false averments as aforementioned, which by reference and definition identified the plaintiffs above and charged them with actions and behavior as aforementioned that were disseminated publically on radio and television and in newspapers, that if true would constitute negligent, and criminal behavior all of which was false but which harmed plaintiffs jointly and severally along with all other plaintiffs to this action.

WHEREFORE plaintiffs demand judgement of defendants jointly and severally in an amount in excess of $50,000.00 together with costs of suit, fees, and such other relief as may be deemed appropriate.

COUNT X

THE PLAINTIFFS FOSTER AND ALGER AGAINST THE DEFENDANT DUNLAP FOR DEFAMATION

126.) Paragraphs 1 through 125 are incorporated by reference herein and made a part hereof.

127.) On or about June 6, 1990 the defendant Gantt made certain written and verbal statements containing false averments as aforementioned, which by reference and definition identified the plaintiffs above and charged them with actions and behavior as aforementioned that were disseminated publically on radio and television and in newspapers, that if true would constitute negligent, and criminal behavior all of which was false but which harmed plaintiffs jointly and severally along with all other plaintiffs to this action.

WHEREFORE plaintiffs demand judgement of defendants jointly and severally in an amount in excess of $50,000.00 together with costs of suit, fees, and such other relief as may be deemed appropriate.

COUNT XI

THE PLAINTIFFS BEATTY, MADL, FRANCES, MANNING AND CONSLA AGAINST THE DEFENDANT URBAN FOR DEFAMATION

128.) Paragraphs 1 through 127 are incorporated by reference herein and made a part hereof.

129.) On or about June 11, 1990 the defendant Urban published a statement containing false averments, which by reference and definition identified the plaintiffs above and charged

them with actions and behavior that if true would constitute negligent, and in some matters legally actionable behavior all of which was false but which harmed plaintiffs jointly and severally along with all plaintiffs to this action.

WHEREFORE plaintiffs demand judgement of defendants jointly and severally in an amount in excess of the jurisdictional amount for compensatory and punitive damages, together with costs of suit, and such other relief as may be deemed appropriate.

COUNT XII

ALL PLAINTIFFS AGAINST THE DEFENDANTS MROZOWSKI, MOYER, KROW AND DAUPHIN COUNTY FOR WRONGFUL DISCHARGE

130.) Paragraphs 1 through 129 above are incorporated by reference herein and made a part hereof.

131.) The defendants named in this Count above all claimed in their legal actions against Handler that they were the de jure and the de facto controller of Handler functions and business, the contract with Handler not withstanding.

132.) On or about the weekend of June 15-17 and the following work week the defendants named in this Count conducted a complete take over of all functions at Handler to include the seizure of all Handler's private property, making decisions which were issued on the spot as to who would be retained and who would be terminated.

133.) By sheer brute force, in violation of any contract and/or law and in excess of the authority granted by Judge Buckwalter's order the defendants became Handler and ascended to the position of management for and at Handler.

134.) The plaintiffs were unlawfully excluded by force from their lawfully held positions by the defendants on June 15, 1990.

135.) The plaintiffs were removed from their rightful employment without notice or hearing, illegally and without just cause as was in fact admitted at the time by Dauphin Counties counsel.

136.) The defendants wrongfully discharged and/or caused the wrongful discharge of plaintiffs in order to harm plaintiffs, intending to harm plaintiffs all on account of plaintiffs race, sex, and/or sexual orientation.

137.) The plaintiff Madl was removed upon being accused of criminal misconduct which was completely false and unjustified and which was known by defendants to be false at the time.

138.) The plaintiffs rights to their employment was clear and manifest, apparent and known to the defendants named in this count who maliciously and without notice terminated plaintiffs in a show of force on June 15, 1990 which wrongful termination was ratified by defendants upon effectuating the Handler take over.

139.) The discharge of plaintiffs was in all ways wrongful, illegal, and devoid of just cause, being based upon illegal and defamatory accusations to which plaintiffs were never given an opportunity to respond.

140.) The wrongful discharge of defendants was in violation of conscience and against public policy and was known by defendants who are experienced in such matters to be wrongful and was an exception to Pennsylvania "at will" employment doctrine as specifically referenced in Judge Kleinfelter's September 20, 1993 order at page 15.

WHEREFORE the plaintiffs demand judgement of the defendants Mrozowski, Moyer, Krow, and Dauphin County in an amount in excess of $50,000.00 together with costs of suit, fees, and such other relief as may be deemed appropriate.

COUNT XIII

ALL PLAINTIFFS AGAINST ALL DEFENDANTS FOR THE VIOLATION OF THEIR CONSTITUTIONALLY PROTECTED RIGHTS PURSUANT TO PENNSYLVANIA CONSTITUTIONAL PROVISION ARTICLE I SECTIONS 1, 26, AND 28

141.) Paragraphs 1 through 140 are incorporated by reference herein.

142.) All defendants at the time herein complained of were government actors or were acting in agreement with government actors.

143.) As aforementioned plaintiffs were discriminated against variously because of their sex and race except in the case of the plaintiff Beatty who is a White gay male.

144.) As aforementioned all plaintiffs were injured in their reputations, professions, and right to earn a livelihood as protected by the Constitutional provisions enumerated above.

145.) The defendants both in their official and individual capacities violated, as evidenced above, the plaintiffs' rights to be secure in their persons and property, their rights to be secure in their reputations, their rights to the equal protections of the laws, their rights to be free of discrimination by the Commonwealth and its subdivisions, and their rights to be free of unlawful interference with their employment on account of their sex or race.

WHEREFORE plaintiffs demand judgement jointly and severally of the defendants in an amount greater than $50,000.00 for the violation of their rights pursuant to Pennsylvania Constitution Article I Sections 1, 26, and 28 together with costs, fees, and such other relief as the Court may deem appropriate.

RESPECTFULLY SUBMITTED

/s/

Don Bailey, PA ID#473687
845 Sir Thomas Court, #9
Harrisburg, PA 17109
(717) 541-4400

DATED: October 12, 1993

VERIFICATION

I, Don Bailey, attorney for the within named plaintiffs, hereby certify that the aforegoing averments in this amended complaint have been reviewed by and with the plaintiffs and are true and correct to the best of their knowledge, information, and belief. Plaintiffs personal verifications have been impossible to procure with the deadline for filing but will be filed as soon as possible.

Date: October 12, 1993

/s/
Don Bailey

CERTIFICATE OF SERVICE

I, Don Bailey, hereby certify that I am on this day serving a copy of the foregoing **Amended Complaint** upon the person (s) and in the manner indicated below, this 12th day of October 1993, service by First-Class Mail, Postage Prepaid, and Addressed as Follows:

Joshua D. Lock, Esquire
106 Walnut Street
Harrisburg, PA 17101

Williams A. Fetterhoff
Fetterhoff & Zilli
240 North Third Street
Suite 203
Harrisburg, PA 17110

Frank Lavery, Esquire
Marshall, Dennehey, Werner,
Coleman & Goggin
130 Locust Street, Suite 300
Harrisburg, PA 17108-0811

James G. Nealan III
3631 N. Front Street
Harrisburg, PA 17110

Thomas J. Williams, Esq.
Martson, Deardorff, Williams
and Otto
10 East High Street
Carlisle, PA 17103

Stephen L. Grose, Esq.
Keefer, Wood, Allen & Rahal
210 Walnut Street
Harrisburg, PA 17108-1963

Gwendolyn T. Mosley, Esq.
Sr. Deputy Attorney General
15th Floor, Strawberry Square
Harrisburg, PA 17108

/s/
Don Bailey
ID#23786
845 Sir Thomas Court
Suite 9
Harrisburg, PA 17109
717-541-4400

DATED: October 12, 1993